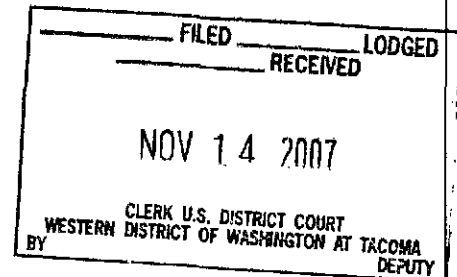


THE HONORABLE RONALD B. LEIGHTON



07-CV-05339-ORD



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JERRE DANIELS-HALL and DAVID
HAMBLEN, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

NATIONAL EDUCATION ASSOCIATION,
et al.,

Defendants.

NO. C 07-5339 RBL

STIPULATION AND ORDER ALLOWING
WITHDRAWAL WITHOUT PREJUDICE
OF THE MOTION OF SECURITY
BENEFIT CORP. AND SECURITY
BENEFIT GROUP, INC. TO DISMISS
ON GROUNDS OTHER THAN SUBJECT
MATTER JURISDICTION

In view of the agreement of all parties in the Joint Status Report and Discovery Plan to defer discovery until disposition of the various motions seeking dismissal on subject matter jurisdiction grounds, and because Plaintiffs believe that they need discovery to respond to certain issues raised in the motion of Defendants Security Benefit Corp. ("SBC") and Security Benefit Group, Inc. ("SBG") to dismiss the Class Action Complaint, Defendants SBC and SBG are willing to withdraw temporarily their motion to dismiss to the extent it relies on grounds other than subject matter jurisdiction, in order to eliminate the need for any discovery

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1 at this time, though in withdrawing the motion SBC and SBG do not concede at this point that
2 such discovery is needed. Accordingly, Plaintiffs and Defendants SBC and SBG hereby
3 stipulate to and request the Court to enter an order as to the following manner of addressing
4 the pending motion of SBC and SBG to dismiss:

5
6 1. The motion to dismiss of Defendants SBC and SBG, to the extent it seeks
7 dismissal on grounds other than a challenge to the Court's subject matter jurisdiction over the
8 ERISA claims in the Class Action Complaint, shall be deemed withdrawn without prejudice,
9 with Defendants SBC and SBG retaining the right to re-file the motion to dismiss the Class
10 Action Complaint asserting such other grounds no later than ten (10) days after the Court's
11 disposition of the pending subject matter jurisdiction motions, should those motions be
12 denied.

13
14 2. Defendants SBC and SBG reserve and retain the right to re-file their motion
15 asserting grounds other than subject matter jurisdiction for dismissal prior to the Court's
16 disposition of the subject matter jurisdiction motions, should discovery otherwise commence
17 prior to disposition of those motions.

18
19 3. The portion of the motion of Defendants SBC and SBG that seeks dismissal on
20 the ground that there is no subject matter jurisdiction for Plaintiffs' ERISA claims,
21 incorporating by reference the motion of Defendants Security Benefit Life Insurance
22 Company ("SBL") and Security Distributors, Inc. ("SDI") to dismiss on that ground, is not
23 withdrawn, and any decision by the Court with respect to the issue of subject matter
24 jurisdiction shall apply also to Defendants SBC and SBG.

25 DATED: November 9, 2007

26
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STIP. AND ORDER ALLOWING WITHDRAWAL - 3 of 6
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ORDER


Based on the above stipulation, the Court orders that:

1. The motion to dismiss of Defendants SBC and SBG, to the extent it seeks dismissal on grounds other than a challenge to this Court's subject matter jurisdiction, be and hereby is deemed withdrawn without prejudice, with Defendants SBC and SBG retaining the right to refile their motion asserting such other grounds no later than ten (10) days after the Court's disposition of the pending subject matter jurisdiction motions, should those motions be denied.

2. Defendants SBC and SBG may refile their motion asserting grounds other than subject matter jurisdiction for dismissal prior to the Court's disposition of the subject matter jurisdiction motions, should discovery otherwise commence prior to disposition of those motions.

3. To the extent Defendants SBC and SBG seek dismissal on the ground that there is no subject matter jurisdiction, incorporating by reference the motion of Defendants SBL an SDI to dismiss on that ground, their motion is not deemed withdrawn, and any decision by this Court with respect to the issue of subject matter jurisdiction shall also apply to Defendants SBC and SBG.

DATED: This 14th of November, 2007.


The Honorable Ronald B. Leighton
United States District Judge

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STIP. AND ORDER ALLOWING WITHDRAWAL - 5 of 6
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